

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DAVID A. MCCOY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 15-0240-CV-W-FJG
)	
FRITZ KINGLSEY,)	
)	
Defendant.)	

ORDER

Pending before the Court is plaintiffs' Motion to Remand (Doc. No. 11). Plaintiffs assert that there is no diversity of citizenship between the remaining parties. In particular, plaintiffs note that they originally brought suit in the Circuit Court for Jackson County, Missouri against both the foreman of the construction site, Fritz Kinglsey, and the general contractor, Manning Construction Company, Inc. Manning Construction Company, Inc. filed a Notice of Removal on April 1, 2015, asserting that there was diversity of citizenship between plaintiffs, who are Missouri residents, and Manning, which is a Kansas corporation. Manning asserted that defendant Kingsley, a Missouri resident, was fraudulently joined.

On April 27, 2015, plaintiffs voluntarily dismissed Manning from this lawsuit under Fed. R. Civ. P. 41(a)(1)(A)(i), which they could do as a matter of right. At present, the only parties remaining in the suit are Missouri citizens. Therefore, plaintiffs assert that this Court lacks subject matter jurisdiction (see 28 U.S.C. § 1332(a)(1)), and the Court should issue an order remanding this case to the Circuit Court for Jackson County

Missouri. See 28 U.S.C. § 1446(c). Defendant Kingsley has filed no opposition to the pending motion.

At present, given that Kingsley is a citizen of the state of Missouri, this Court lacks subject matter jurisdiction of this case. Plaintiff's Motion to Remand (Doc. No. 11) will therefore be **GRANTED**. This case is **REMANDED** to the Circuit Court of Jackson County, Missouri, at Kansas City.

IT IS SO ORDERED.

Date: June 4, 2015
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge